GEN. WM. F. SMITH'S VICTORY

GEN. WM. F. SMITH'S VICTORY

RESTORED TO HIS POSITION AS A

POLICE COMMISSIONER.

Mayor Cooper's Action in Attermiting to Deprive him of Office Pronounced HiegalThe Decision in Mr. Nicola's Case also
Against the Mayor The Judge's Upinion.

Judge Daniels, in Supreme Court, Chambers, yesterday, handed down the Supreme
Courts opinion in the case of ex-Police Commissioner William F. Smith, who was removed
from office by Mayor Cooper. The question
came up on a motion for judgment on the return of the writ of certiforari to review the proceedings taken before the Mayor in the mater.
On March 14, 1879, the Mayor addressed to
Commissioners Smith, Erharit, and Nichols a
letter, charging that undertheir administration
the police force had become lax and incapable;
that the Commissioners had allowed personal
discussions to interfere with their official
duries; that their conduct had been unbecoming, and that these causes warranted their removal from office. He appointed March 19 to
give them a hearing on these questions.
On March 19, Gen. Smith appeared by counsel, but Mayor Cooper persistently refused to
silow him a hearing by counsel. Counsel persisted, and read Gen. Smith's answer to Mayor
Cooper's charges, denying in detail each point
of the charges and claiming that the charges
being false, they constituted no cause for his
removal. The auswer proceeded to say that the
charges not being specific, no specific answer.

of the charges, and claiming that the charges being false, they constituted no cause for his removal. The answer proceeded to say that the charges not being specific, no specific answer could be made to them; and there being no proof to sustain them, no counter proof could be offered. Gen. Smith demanded as a right the opportunity to be heard in his defence, and protested against his removal without such opportunity. Mayor Cooper persisted in removing the Police Commissioners without a hearing, and Gov. Robinson, after hearing argument on the subject, sustained the Mayor, and Messrs. Voorhis and MacLean were appointed, instead of Commissioners Smith and Nichols. After complicated legal proceedings the appeal of Commissioner Nichols to the Supreme Court in the Nichols case. It will be seen from Judge Daniels's opinion that Gen. Smith is also the rightful incumbent of the office of which he was arbitrarily dequired. Below is the full text of the decision of the Supreme Court at General Term:

Danners, J.—The determination of the Mayor that the relator should be removed from his office did not take effect in his actual removal until it was communicated, with the reasons in dueing it, to the tovernor, and it was approved by him. Laws of 1873, 421, see, 25. For that reason, and because it has got been made; to the fall text of the decision of the Supreme Court at General Term:

Danners, J.—The determination of the Mayor that the relator should be removed if the first of the courts of the office of which he was arbitrarily dequired. Below is the full text of the decision of the Supreme Court at General Term:

Danners, J.—The determination of the Mayor that the relator should be removed if the full text of the decision of the Supreme Court at General Term:

Danners, J.—The determination of the Mayor that the relator should be removed if the full text of the decision of the Supreme Court at General Term:

Danners, J.—The determination of the Mayor that the relator should be removed if the full text of the decision of t bis favor. He took his seat, and Commissioner MacLean retired. Judge Lawrence delivered the opinion of the sourt in the Nichols case. It will be sean from Judge Baniels's opinion that Gen. Smith is also the rightful incumbent of the office of which he was arbitrarily deprived. Below is the full text of the decision of the Supreme Court at General Term:

Daniels, J.—The determination of the Mayor that the relator should be removed from his office did not take effect in his actual removal until it was communicated, with the reasons inducing it, to the Governor, and it was approved by him. Laws of 1873, 491, sec. 25. For that reason, and because it has not been made to appear that the Governor has approved this determination, it has been objected that the proceedings still remain in so snoomplete a condition that they cannot be reviewed by means of this writ.

ondition that they cannot be reviewed by means of this writ.

It does not appear that the decision and the

The news of the decision and the common and the same and the same and the control of the control

allowed to intervene. If the delay was too great, the writt might still be dismissed by the Court before which the return was brought on for a hearing. But that control over it was not ordinarily zeroused in doubtful cases. People agt. Stillwell, 19 N. Y., 581; People agt. Hill, 53 N. T., 547; People agt. Utica, 65 Barb. 9; People agt. Perry, 23 N. Y. Sun, Court Repris, 461.

Since the principle of limiting the application for a writ of certiorari to a period not exceeding two years was adopted; that within which judgments may be reviewed has been radically and essentially changed. That now prescribed for the review of a judgment recovered on a verdict, or on trial before the Special Term or a referce, is thirty days after notice of its entry; and that for the review of a judgment of a county court, or any other court of record possessin original jurisdiction, has been limited to sixty days after similar notice of its entry (Code of Civil Procedure, sections 1.351 and 1.343). For that reason, and to preserve the analogy previously followed, it has been urred that applications for the writ of certiorari should be correspondingly limited. And it has been substantially so held by Mr. Justice Van Brunt in the case of sundry applications to review the proceedings of the Police Board. But this decision was qualified by the limitation that "there may be cases where alonger delay would not be laches, such as where the right to the writ.

The case however, has not been brought writing a lovestigation, which had not been determined at the time the relator suffered the wrong sought to be redressed." This was a case of that description, and the doubt existing in it was not finally removed until a very short time before this writ was obtained, and that should be allowed as a sufficient answer to the motion made to dismiss the writ.

The case, however, has not been brought within the analogy suggested by these provisions prescribing the present time for bringing appears; for in the case of bave been served of their each to b

retaining also who were learned in the law. For that regson, while the determination for the relator's removal must be reversed, it must be without costs.

relator's removal must be reversed, it must be without costs.
Mr. Williard Bartlett, who, with Mr. T. C. E. Ecclesine, appeared for Gen. Smith, was visited at 110 Broadway and asked. What will be the effect of this decision of Judge Danners?
Mr. Bartlett—The effect of course, will be to restore Gen. Smith to his office. Upon this opinions forms, order his to the entered, and that must be sent to Judge Danners at Buffano, for a written direction upon it to the dark to enter it. Now, in the case of Commissioner Suchols the other Police Commissioners at once recognized him as soon as the opinion of Judge Lawrence was filed and before any order had actually been entered upon it. I have no reason

to doubt that a major tv of the Commissioners

"The cases of Messrs. Smith and Nichols presented substantially the same questions, except that there was a question of laches in Commissioner Smith's case, which did not come up in the case of Mr. Nichols."

The news of the decision restoring Gen. Smith to his position as Police Commissioner caused a little flutter of excitement at the Police Central Office, and expectation ran high that he would appear to claim his own. Many of the clerks remained after their usual office hours to greet him, but he failed to come. Capt. Washburne run up the flag over the Thirty-seventh street police station on getting the news.

heart and soul. I am told by the authorities holds they will have to put the meders of recording the property of the foreign and the foreign a

Brooklyn's Death Rate.

The Yale Commencement.

the Rev. Henry M. Dexter of Boston and Prot. Just 10

That Torment of Babyhood,

Sour stomach, may always be remedical with the benign and popular carminative and aid to digestion, Milk of Magnesia - Acc.

New Haven, July 1 .- At the commencement at Yale to-day the following honorary degrees were con-ferred: Doctor of Laws, Mr. R. B. Hayes and the Hon-Hugh W. Sheffey of Staunten Va.; Doctor of Divinity.

stem, on the main of March 31, which preceded the hather of five Fords, that how place the next six, His examination will be continued this merrion. Fan Airment M. Kannel of the First I which stakes Artifiers, who was Colonic of the Section I New York, Cavarry under Custer and ing the war, said that his rectainst made two assumed to the enemy's works during the battle, but that out the middle after 4 in the attenues, when few and carry them must are 4 in the attenues, when few

BRIEF MENTION.

Crook's hand on the Battery to-night. Which is Said to have Bemoralized the Plainfield Fire Department. Louisa Gluch 10 years of age of 158th street and Girard scenner was drowned Sesterday while bathing in Cromwell's Creek. The Fire Department of the city of Plainfield,

might have thrown a circar stumour a lighted match into the washroom, where the explosion took place. The door was open, it is said, between this washroom and the hall, which extends from Fark place to Barylay abrect. All of the persons connected with the company who were employed in the building have been subjudined to verify being the Fire Marshal at 10 critical his morning. The Fire Marshal dies not doubt after distenua to the account of Mr. II. Farker, who had charge or the establishment, that fire had be seen out in the washroom better the explosion occurred. The most of the marsh of the explosion between the superson of the explosion had been cleared away yesterday. Steps of explosion covered the large opening made by the bowder in the partition between the washroom and the had.

The weekly report of statistics of the Brook-iya Board of Health, for the week enough June 28, shows that there were \$14 cases of death, representing a death that there were 414 cases or death, representing a death rate of 38 14 in every 1,030 of the population. The number was 187 more than in the previous week. There were 187 cases of death from diarrhead diseases, 135 being due to choice a infantion and 164 necessity a mong children under five years of age. The protracted heat in the latter part of the week easied 35 cases of death or Section 1970 choices miniming alone. On that day the number of cases of death from all cases was 167—166 in the protracted of the case of death from all cases was 167—166 in the case of cases of death from all cases was 167—166 in the case of th

two of whose terms existe every year. At the annual election in April last, on account of resimants during of the previous year, there were four vacances to fill. One of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the old members was reflected and three new men of the south was countried to the old members and the Board ment to organize that the old members was reflected and three new week to be one of the south of the south was a countried to the south of The symbolic in the Residual folice Department has caused another with the strong of the say folic and there early any what shall integer to be due, on taking shall account, the account of such payment a factor of the strong of the say sold there early a sold there early the first way and the payment and the best poon, which sold the said free early the said the sold th yesterday. Their dimes are to first discussed and in specified premises vasical, with a view to resider them healthner.

The Executive demantifes of the Contral Manesock and English (which Strict Limits had burnt organised to the Principle in the owner of the English of Strict Limits had burnt organised to the english of Strict Limits had burnt organised to the prices of coal for the month of July, descripted prices of coal f

Comment health very mirth, it has begretary of the factors of the fluorest or the fluorest principle of the season of the fluorest principle of the season of the control of the fluorest principle of the season of the fluorest principle of the season of the fluorest principle of the season of the seaso

The state of the s

instead of a piec. Alt of which contributes evidence of the charger incurred by those who buy speculative shoes so a smal margins.

The receipts from internal revenue to-day wore \$534,168,08, and from eastoms \$642,792,39.

The public debt statement published to-day shows a decrease of the debt during the month of June of \$10,214,424,51, and a decrease since June 33, 1879, of \$82,045,961,08, The renal debt principal and interest, is \$2,143,269,918,22. The current liabilities of the Treasury are: Interest due and unpaid, \$2,368,905,72; debt on which interest has censed, \$7,621,456,26; interest there is has censed, \$7,621,456,26; interest there on \$814,444,01; good and silver certificates of deposit, \$14,465,000; casis resinces available, \$15,54,446,57,98; total, \$20,378,80; total states and the same fine \$2,037,000 fourth morgang bonds of the old Erne Individue of the same fine \$2,037,000 fourth morgang bonds of the old Erne Individue of the same time hold; erso of these bonds were informed that they must prevent them for extension to a webstaneous of the old Erne Individue of the same fine hold in the hold in the same fine hold in the same fine hold in the same fine

NEW YORK WEEKLY, "STRYL'S INFLUENCE: or,

THE MISSING LINE," by

MRS. GEORGIE SHELDON. Author of

Brownie's Triumph," "The Forsaken Bride," "The Churchyard Betrothal," &c., &c.

MRS. SHELDON writes exclusively for the NEW VORK WEEKLY, and "SIBYL'S INFLUENCE" bids fair

NEW YORK WEEKLY will be ready and for sale by every News Agent to mosrow, Saturday, July 3.

REEL'S SHIRTS.

GLOVES UMBRELLAS UNDERWEAR & &c.
Keer's clustem States, made to measure from Warnantin Myslir and local trian Latine, mouse for measure from Warnantin Myslir and local trian Latine mousens bepty, at linear,
perfect Latine modes of the construction of the serve beak,
some quality of the construction states, six for \$6.7a.

States of the construction states, and the format for the construction of the cons

NANA! OUT TO DAY IN THE NEW YORK

removed sectantly by a few shope or sibboxE's Magdet 011. Sold everywhere, 25 code a bottle.

THE HALE REGENERATIVE PILLS absents care for same candood and nervous reaking \$1,400 to \$1,400 t

SCIENCE-The new weekly scientific journal edited. S by John Michels, mow ready at all newsciences, institute articles by well known scientific appearance, a lodispensable to every man of intelligence. Proc 10 contains